

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-634

November 4, 1999

PUBLIC UTILITIES COMMISSION
Investigation into Area Code
Relief

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, the Commission orders the implementation of thousand block pooling by all LNP-capable carriers in all LNP-capable rate centers in Maine by June 1, 2000, and appoints Lockheed Martin's Communications Information Systems Division (CIS) as the pooling administrator until such time as the Federal Communications Commission (FCC) appoints a national thousand block pooling administrator. We direct all Maine code holders to obtain a copy of the proposed pooling administration contract directly from Lockheed Martin. The Commission also orders: (1) all local exchange carriers and wireless carriers to put all thousand blocks with contamination rates of 10% or less in holding categories; (2) any carrier requesting a growth code in a rate center to provide the Commission with proof of a fill rate of 75% for its existing code as well as a months to exhaust worksheet that shows the code will exhaust in less than 6 months; (3) any carrier requesting an initial code for a rate center to demonstrate facilities readiness within 6 months; and (4) wireless carriers to meet with the Commission to discuss ways to improve wireless numbering efficiencies.

II. BACKGROUND

On September 28, 1999, the FCC issued an Order granting the Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Measures (Petition).¹ In its Order, the FCC granted the Commission authority to:

- (1) Order thousand block pooling by all LNP-capable carriers in Maine;
- (2) Investigate whether code holders have activated NXXs assigned to them within the time frames specified in the Central Office Code Assignment Guidelines (Guidelines), and to direct the North American Numbering Plan Administrator (NANPA) to reclaim NXXs that the

¹Maine Public Utilities Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures, *Order*, CC Docket No. 96-98, NSF File No. L-99-27 (rel. September 28, 1999) (Order).

Commission determines have not been activated in a timely manner;

- (3) Request number utilization data from all carriers;
- (4) Require NXX code applicants to demonstrate that they have met certain fill rates prior to obtaining additional numbering resources, even in non-jeopardy NPAs, and allow the Commission to enforce these requirements;
- (5) Require carriers to demonstrate facilities readiness before acquiring an initial code; and
- (6) Require all code holders to submit forecast information to the Commission and the North American Numbering Plan Administrator (NANPA) and to direct NANPA to withhold assignment of numbering resources to those carriers who do not submit forecasts.

The Commission will fully explore the implementation of each of these measures and will provide all parties an opportunity to be heard before final measures are adopted.

III. THOUSAND BLOCK POOLING

A. Thousand Block Pooling Should Be Implemented in Maine by June 1, 2000.

The FCC's Order grants the Commission authority to institute a mandatory thousand block number pooling trial in Maine in all areas and by all carriers that are presently LNP-capable. Order at ¶ 30. The FCC found that thousand block pooling "is an important numbering resource optimization strategy, essential to extending the life of the North American Numbering Plan" and that pooling will allow the Commission "to address inefficiencies on the supply side of the telephone number assignment regime by ordering that LNP-capable carriers receive smaller blocks of numbers than they now do." Order at ¶¶ 26, 37. Indeed, thousand block pooling allows numbers to be allocated in blocks of 1,000 rather than 10,000 (as currently required under the Central Office Code Assignment Guidelines (CO Guidelines)) by a pooling administrator who coordinates the allocation of numbers to a particular service provider with the Number Portability Administration Center (NPAC).

Currently, there are over 3.7 million numbers stranded in assigned CO codes in Maine. According to the individual carrier data submitted pursuant to the Industry Task Force Agreement, there are approximately 1000

uncontaminated thousand blocks within Bell Atlantic's service territory² as well as an additional 700 blocks with under 10% contamination. (Collectively referred to as "minimally contaminated blocks.") If all of the LNP-capable code holders were to donate all of their minimally contaminated blocks, all but 14 rate centers in Bell Atlantic's territory would have at least 5 blocks in their initial pools. Even if only 75% of the available blocks are donated, numbering efficiency in Maine will significantly improve and the date of exhaust for the 207 area code will be delayed considerably.

None of the parties filing exceptions to the Hearing Examiner's Report objected to the implementation of pooling in Maine but several suggested that the Commission delay implementation of pooling in Maine until NPAC Release 3.0 (a pooling software package) becomes available.³ Currently, only NPAC Release 1.4 is available for pooling. Lockheed Martin CIS expects to deliver NPAC Release 3.0 on June 1, 2000, however, the Industry projects it will need four to six months to test the software before it could actually be implemented. Accordingly, pooling with NPAC Release 3.0 will likely not be available until at least January 1, 2001 and perhaps even later if there are problems with the software. Because carriers who are not LNP-capable will continue to require assignment of full central office codes (NXXs) even after the implementation of pooling, the longer we delay the start of pooling, the fewer full NXXs will be available for those carriers and the shorter the delay in the exhaust of the 207 area code.

On the basis of this evidence, as well as upon information submitted to the FCC in its rulemaking proceeding,⁴ we believe that Maine cannot wait to begin pooling until NPAC Release 3.0 becomes available. We must move forward using the software available to us at this time. We further believe that a start date of June 1, 2000, is a reasonable accommodation of the carriers needs relating to Y2K quiet periods and modification of operation support systems (OSSs) and our duty to protect the citizens of Maine from the costs and inconveniences associated with the implementation of a new area code. Accordingly, we direct all code orders in Maine to come to the Implementation Meeting on November 18, 1999 at 10 a.m. in the Commission's Hearing Room prepared to set a schedule for the implementation of pooling in Maine by June 1, 2000.

²As of August 31, 1999, Bell Atlantic had implemented local number portability throughout its territory. AT&T, MCI/Brooks, Lightship, Fairpoint, Communications Design, Inc., and Mid-Maine TelPlus (Maine's only facilities-based competitive local exchange carriers offering non-dedicated service) are all LNP-capable and have been certified to provide service within Bell Atlantic's territory (or a portion thereof). None of the independent telephone companies is currently LNP-capable.

³NPAC Release 3.0 will provide a more efficient method for data storage as well require fewer manual processes.

⁴Number Resource Optimization, Docket No. 99-200.

B. Lockheed Martin's Communications Information Systems Should Serve as the Pooling Administrator.

In order to implement thousand block pooling, a neutral third-party administrator must be retained. The North American Numbering Council (NANC) has recommended to the FCC that CIS/NANPA be named the national pooling administrator. The FCC has yet to act upon the NANC's recommendation. Currently, CIS is administering the thousand block pooling trials in Illinois and New York. CIS has agreed with NANC to provide pooling administration services pursuant to the terms approved by the NANC in those states that are granted authority by the FCC to implement mandatory thousand block pooling trials.

Given CIS's experience in service as pooling administrator and the likelihood that CIS/NANPA will be named the national pooling administrator, we believe CIS should serve as the pooling administrator for Maine. While none of the commenters objected to CIS's appointment, several requested that CIS submit a bid proposal. A non-disclosure agreement and draft contract⁵ incorporating the terms agreed to by CIS and NANC should be obtained by all code holders in Maine from Greg Roberts of Lockheed Martin at 202-533-2690 or Greg.Roberts@npac.com. We will discuss any problems or issues relating to the proposed contract at the Implementation Meeting on November 18, 1999.

C. Thousand Block Pooling Guidelines

In Paragraph 30 of its Order, the FCC required the Commission to implement thousand block pooling according to the industry-adopted thousand block pooling guidelines.⁶ The FCC further provided, however, that the Commission could depart from those Guidelines if it deemed it appropriate after first consulting with the Industry regarding the implications of any proposed changes. Order at ¶ 30. The Advisors requested that parties submit comments regarding what provisions, if any, of the Thousand Block Guidelines should be modified to accommodate a thousand block pooling trial in Maine. The Advisors further recommended that once parties submitted their comments and the Advisors have identified sections they believe should be modified, we should put all of the suggested changes out for further comment before acting on any of the recommendations.⁷ We concur in the Advisors' recommendation.

⁵The proposed contract is between CIS, the carriers, and the Northeast Carrier Acquisition Company (the regional limited liability corporation set up by carriers to handle number portability issues). We understand that the Northeast Carrier Acquisition Company, LLC was recently merged into a national LLC and thus, the final contract may be between CIS, the carriers, and the national LLC. (The NCAC has not yet agreed to be a party to the contract.)

⁶Thousand Block (NXX-X) Pooling Administration Guidelines, Draft (INC 99-0127-023) (rev. Jan 27, 1999) (Thousand Block Guidelines).

⁷If the Industry Numbering Committee (the author of the Guidelines) were to approve any changes in the Guidelines suggested by Maine or other states, those changes would not be further noticed in this proceeding.

D. Cost Recovery

In its Order, the FCC required that the Commission determine the method to recover the cost of the pooling trial as well as how carrier-specific costs directly related to pooling administration should be recovered. Order at ¶35. The authority delegated to the Commission by the FCC is governed by §251 of the Telecommunications Act which requires that any recovery mechanism be competitively neutral. In its Order, the FCC recommends that the Commission consider the cost principles found in the FCC's Telephone Number Portability Order⁸ when designing a cost recovery mechanism. We recognize the importance of cost recovery issues to the Industry and will schedule a cost recovery technical conference/workshop so that a cost recovery mechanism can be in place by the time pooling is turned up. We expect to give considerable weight to the FCC's tentative conclusions in the FCC's Notice of Proposed Rulemaking (NPRM) in the Number Resource Optimization proceeding (Paragraphs 193 to 210)⁹ with regard to the design of a cost recovery mechanism.

IV. INTERIM CONSERVATION MEASURES APPLICABLE TO ALL CARRIERS

A. Fill Ratios

In order for thousand block pooling to as effective as possible, we need to maximize the number of pooling-eligible blocks available in the pooling area, which includes all of Maine even though the pooling will not be implemented in areas outside of Bell Atlantic's service territory until a later date. As a first step, prior to actually establishing the pools, we will require all code holders to put all thousand blocks with less than 10% contamination in a holding category that is not accessible to sales, marketing, or customer service personnel. Application of this requirement to all carriers will preserve numbering resources in all areas of Maine and in all segments of the telecommunications market. It will also promote competitive neutrality between carriers which will be required to pool and those who will not.

Accordingly, carriers should assign numbers as described below.

- (1) Assign freely from blocks with more than 10% contamination until an overall 75% utilization rate is reached.
- (2) Open one minimally contaminated block and assign until an overall 75% utilization rate is reached. This process is

⁸Telephone Number Portability Third Report and Order, 13 FCC Rcd at 11724.

⁹Notice of Proposed Rulemaking, Number Resource Optimization, Docket No. 99-200 (May 27, 1999).

repeated until all uncontaminated blocks have been utilized and an overall 75% utilization rate is reached for the NXX.

Upon reaching an overall utilization rate of 75% for the NXX, a carrier may submit a request to NANPA for an additional NXX for that rate center only if the carrier's months to exhaust worksheet also shows that the code will exhaust in less than six months. The carrier should submit a copy of its code application, months to exhaust worksheet, and number utilization data for that specific rate center (in the format currently used in the semi-annual submission to the Commission) to the Hearing Examiner in this proceeding at the same time the code application is filed with NANPA.

We acknowledge the concerns raised in some of the exceptions regarding the need for flexibility and thus, in accordance with the FCC's directives in Paragraph 12 of the Order, we adopt a waiver provision under which any carrier that believes that it would not be able to meet both the 75% fill ratio and 6 months to exhaust requirement and acquire sufficient new resources to meet projected demand, could request a waiver of the fill ratio and/or months to exhaust requirement. Any such request must include back-up data showing why the carrier expects demand will exceed its resources. All such data submitted would be protected under the terms of the Permanent Protective Agreement. In addition, to ensure the expedited review and processing of any waiver requests, we delegate authority to Commission staff to grant waivers if staff finds the back-up data both sufficient and credible. (Carriers would have the right to appeal an adverse decision to Commission.)

We believe that the structure we have set up will provide all carriers with continued access to numbering resources needed to meet actual customer demand while ensuring that resources are not unnecessarily squandered.

B. Initial Code Application Requirements

With regard to requests by carriers for initial codes within a rate center, we will continue the process we have been informally following since March. Specifically, before we approve a facilities-based competitive local exchange carrier's request for certification in a specific rate center, the carrier must provide the Commission with information demonstrating facilities readiness within six months. When the carrier actually applies to NANPA for an initial code, it should provide the Commission with updated information which clearly indicates facilities readiness within six months of the requested activation date of the code. After the parties have submitted their comments regarding how the standard of "facilities readiness" should be interpreted, we will issue more specific guidelines regarding this issue.

V. NON-LNP CAPABLE CARRIER CONSERVATION EFFORTS

Non-LNP capable carriers (wireless carriers and the independent telephone companies) will not be eligible to participate in pooling and, thus, will

continue to be allocated full 10,000 blocks of numbers. As discussed above, in order to ensure competitive neutrality, we believe that non-LNP capable carriers should be subject to the same fill ratio requirements described in section IIIA above as well as the facilities readiness requirements described in Section IIIB.

In addition, we will require wireless carriers (and all other interested persons and parties) to meet with the Advisors, on a date to be determined at the Implementation Meeting, to discuss what can be done to further conserve numbering resources, including technical issues regarding the need for separate NXXs for prepaid wireless services as well as the use of extended local calling areas. To the extent that any agreement can be reached which would minimize the number of NXXs wireless carriers would need to provide service, the Commission might entertain delaying the implementation of pooling until NPAC Release 3.0 is available. This issue, however, will not be a subject of discussion at the Implementation Meeting on November 18th; it will be the subject of a separate meeting. Discussion at the Implementation Meeting will be limited to those relating to the use of NPAC Release 1.4 to implement pooling in Maine.

Dated at Augusta, Maine, this 4th day of November, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

THIS DOCUMENT HAS BEEN DESIGNATED FOR PUBLICATION

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.